

GAO

January 1992

**MASS TRANSIT  
GRANTS**

**Noncompliance and  
Misspent Funds by  
Two Grantees in  
UMTA's New York  
Region**



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Resources, Community, and  
Economic Development Division

B-245557

January 23, 1992

Congressional Recipients

In January 1990, we implemented a special audit effort to help ensure that areas vulnerable to fraud, waste, abuse, and mismanagement are identified and that appropriate corrective actions are taken. This effort focuses on 16 high-risk areas, 1 of which is the Department of Transportation's (DOT) Urban Mass Transportation Administration's (UMTA) grants management oversight.<sup>1</sup>

This report presents the results of one of several assignments that GAO is conducting at UMTA. The report examines the compliance with federal requirements by selected grant recipients in UMTA's Region II, headquartered in New York City, and the effectiveness of UMTA's oversight of Region II grantees. The report is based on our review of UMTA's oversight of the Long Island Railroad (LIRR) and of the New York City Transit Authority (NYCTA), which are two major operating agencies of New York's Metropolitan Transportation Authority (MTA). MTA and its operating agencies account for 62 active grants totaling \$6.3 billion, or about 72 percent of Region II's grant funds. The Committees and Members of Congress who asked to receive the results of our UMTA reviews are listed at the end of this letter.

## Results in Brief

UMTA gives grantees primary responsibility for appropriately using federal mass transit funds. However, the two Region II grantees we reviewed in detail did not have adequate systems to ensure compliance with federal requirements, and, because its oversight was limited, the region did not effectively detect and correct grantee deficiencies. As a result of these shortcomings, federal transit funds in Region II are vulnerable to fraud, waste, and mismanagement. At NYCTA alone, according to DOT's Office of Inspector General (OIG), more than \$90 million has been wasted, misused, or mismanaged since October 1987.

In addition, Region II was slow to detect and correct serious and long-standing procurement and quality assurance deficiencies in a major LIRR construction project. By the time the region took sufficient action to compel LIRR to correct its problems, the project had slipped 5 years and overruns had more than doubled estimated project costs. Furthermore,

<sup>1</sup>The Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240, was signed into law on December 18, 1991, as this report was being prepared for publication. One title of the act amends the Urban Mass Transportation Act of 1964 and renames UMTA the Federal Transit Administration.

overruns had more than doubled estimated project costs. Furthermore, in 1987, 1990, and 1991 the OIG reported that NYCTA had violated federal regulations by using UMTA-funded buses exclusively to transport students. Region II only recently took action to enforce compliance with the regulations.

Also, Region II did not comply with UMTA administrative requirements for closing out grants and reviewing overhead costs at NYCTA. Finally, the region did not effectively use findings by other organizations, such as the New York State comptroller's office, on waste and mismanagement at LIRR and NYCTA. In fact, the region was not aware that some of the information existed.

The absence of proactive oversight and prompt action by Region II to compel grantees to correct noncompliance resulted in misspent funds. Such a laissez-faire approach sends a message to grantees that federal requirements are not important.

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## Background

The Urban Mass Transportation Act of 1964, as amended, authorizes UMTA to provide federal assistance for the development of new mass transit systems and for the operation, maintenance, and improvement of existing systems. UMTA assistance is primarily provided for capital projects and operating expenses through section 3 discretionary and section 9 formula grants. UMTA is responsible for overseeing grantees to ensure that they comply with federal requirements and properly use federal funds. In its 10 regional offices, UMTA oversees more than 4,600 grants nationwide totaling approximately \$35 billion. Region II is responsible for 25 percent of UMTA's total grant funds—the highest percentage for any regional office. Currently, Region II oversees 381 grants valued at \$8.8 billion. These grants have been awarded to 42 transit authorities, state and local governments, and other entities in Connecticut, New Jersey, New York, and the U.S. Virgin Islands. (See app. II for the number and value of grants by state.)

On the basis of our earlier work at UMTA and of deficiencies reported by the OIG, the Secretary of Transportation identified UMTA's grants management oversight as a material weakness in his Federal Managers' Financial Integrity Act reports to the President and the Congress for fiscal years 1989 and 1990. The Secretary cited UMTA's growing workload and decreasing staff as causes of the oversight problems. According to DOT, UMTA had a 27-percent reduction in staff over the 9 years ending in fiscal year 1990. The 1990 report identified an action plan for

improving the situation and noted that additional resources would be needed in fiscal years 1991 and 1992 to correct the weaknesses. UMTA received authority to expand its use of contractor-provided oversight and, in fiscal year 1991, received approval to hire 14 additional staff. UMTA has requested 31 additional staff for fiscal year 1992. Region II received 4 of UMTA's 14 new positions in 1991, bringing to 20 the region's approved staff size.

## Grantee Noncompliance and Questionable Use of Funds

Grantees are the first line of defense in detecting and preventing waste and mismanagement. UMTA requires grantees to certify that they have adequate management and financial systems to execute UMTA-funded projects in compliance with federal requirements. We found that LIRR and NYCTA did not have effective financial, technical, and other management systems to ensure compliance with federal requirements and, as a result, federal funds were misused.<sup>2</sup> Since January 1988, the New York State comptroller has identified over \$25 million inappropriately spent by LIRR and NYCTA, and since October 1987, the OIG has found that NYCTA has wasted, misspent, or mismanaged \$90.6 million. (See app. III for OIG reports on region II grantees.) The following examples, drawn from our review of LIRR and NYCTA and our analysis of audit reports by the New York State comptroller, the New York City comptroller, and the OIG, illustrate these deficiencies:

- Inadequate management of LIRR's capital construction program resulted in cost overruns—from an estimated \$171 million to nearly \$400 million—and project delays—from 1986 to 1991—to complete the Holban/Hillside railcar maintenance facility, a major UMTA-funded project started in 1983. (Additional details are provided later in this report.)
- Reports issued by the state comptroller in October 1990 disclosed inadequate procurement controls at LIRR that resulted in the questionable use of over \$20 million for, among other things, nonproductive labor and advance payments to a contractor who defaulted on the contract.
- The OIG investigated allegations of kickbacks to a contractor employee on the LIRR project. The OIG recovered a ledger from the employee that recorded \$200,000 in kickbacks. The U.S. Attorney's Office, Eastern District of New York, offered the employee a plea agreement in exchange for his cooperation concerning extortion, bribery, and fraud in the construction industry. The employee pleaded guilty to one count of mail

<sup>2</sup> The OIG bases its findings on criteria that it believes are clearly prescribed by law. Some OIG findings relate to requirements that UMTA or the transit authorities believe may not be needed or may be subject to different interpretations.

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fraud for \$4,650 and was sentenced to 1 year and 1 day in federal prison.

- The OIG reported in 1987 and again in 1990 that, in violation of federal requirements, NYCTA was using UMTA-funded buses exclusively to transport students. The 1987 report recommended that UMTA withhold over \$22 million and bar future bus grants; the 1990 report recommended withholding \$66 million and barring future bus grants. In March 1991, the OIG determined that NYCTA still did not comply. UMTA did not take enforcement action until April 1991, when it suspended funding. (Additional details are provided later in this report.)
- In April 1988, the OIG reported that NYCTA had billed UMTA \$922,000 for ineligible design, construction, and other costs. The OIG recommended that UMTA recover the improperly used funds and refrain from funding an additional \$404,000 in ineligible work. As an alternative corrective action, UMTA allowed NYCTA to substitute other eligible project costs in place of the ineligible costs.
- A May 1988 OIG report found that NYCTA had billed UMTA \$867,258 for ineligible costs caused by, among other things, design errors and inadequate material testing. The OIG recommended that UMTA recover these costs and not fund \$137,466 in additional ineligible project costs. NYCTA did not reimburse these costs; rather, UMTA allowed NYCTA to substitute other eligible costs.

In addition, the state comptroller disclosed weaknesses in contracting, procurement, maintenance, and financial management practices at LIRR and NYCTA, and the city comptroller cited LIRR and NYCTA for management deficiencies and inadequate controls. For example, the city found that, as a result of poor planning, disorganization, and mismanagement, NYCTA's \$277-million station modernization program was far behind schedule and millions of dollars over budget. Furthermore, MTA's Office of the Inspector General and LIRR's and NYCTA's internal audit departments issued more than 600 reports between 1987 and 1990 identifying deficiencies, such as overpayments, inadequate inventory and property security controls, and other management weaknesses.

## Region II Oversight Did Not Detect and Correct Deficiencies

UMTA has various monitoring tools to oversee grantee activities, including triennial reviews, quarterly reports, progress meetings/site visits, independent annual audits, and project management oversight (PMO) by contractors.<sup>3</sup> UMTA also has a number of enforcement authorities, ranging from sending notice letters to withholding funds, to compel compliance and seek reimbursement for misspent funds.

According to DOT, terminating payment is one of the most extreme tools and is appropriate only in the most intransigent cases. In a September 1991 letter, DOT noted that federalism requirements established by Executive Order 12612 support placing maximum reliance on grant recipients with minimal intrusion by DOT. Nevertheless, DOT believes that some direct involvement by UMTA in grantee oversight is critical to ensure compliance with applicable federal requirements. However, our review of Region II's oversight of LIRR and NYCTA showed that UMTA did not effectively detect and correct problems identified by the OIG, the state comptroller, and others. As a result of Region II's inadequate oversight, federal transit grants to the region are vulnerable to fraud, waste, abuse, and mismanagement.

## Longstanding Problems Identified at LIRR

Region II was first alerted to significant problems with LIRR's management of the Holban/Hillside construction project when it started using a PMO in 1987. The PMO warned UMTA about management deficiencies and unjustifiable budget increases. In commenting on a draft of this report, DOT cited numerous memoranda, other correspondence, and meetings between February 1987 and February 1989 that the agency hoped would address the problems at LIRR. However, these actions did not compel LIRR to correct the deficiencies. Finally, in March 1989, UMTA suspended new capital funding to LIRR and required, among other things, changes in LIRR's procurement, files management, and quality assurance systems before UMTA would resume capital funding. According to Region II officials, the suspension was lifted in May 1991 after the PMO found that LIRR was technically capable of carrying out UMTA-funded projects.

## Region II Did Not Require NYCTA to Correct Noncompliance

The OIG reported to Region II in October 1987 and again in October 1990 that NYCTA was violating UMTA regulations by using UMTA-funded buses exclusively to transport students. However, correspondence between NYCTA and Region II indicated that NYCTA was aware of this violation as

<sup>3</sup> UMTA has PMO contracts with 12 engineering firms to provide on-site, technical oversight at selected large construction projects nationwide.

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early as March 1986. The 1990 OIG report recommended that UMTA withhold \$66 million in grant funds and bar future bus grants until UMTA had confirmed NYCTA's compliance with UMTA regulations.

Region II officials told us that they had been reluctant to take enforcement action because the region had received assurances from NYCTA after each report that the violations would be corrected. However, Region II did not determine whether NYCTA had complied.

In March 1991 the OIG again found that, despite its assurances to UMTA, NYCTA was continuing to use federally funded buses exclusively for transporting students. The OIG reported this longstanding noncompliance in its March 1991 semiannual report to the Congress. UMTA suspended bus grant funding to NYCTA on April 26, 1991, more than 3 years after the OIG first disclosed the problem.

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## Region II Does Not Routinely Use State and Local Audit Findings in Its Oversight

The New York State comptroller, the New York City comptroller, MTA's Office of the Inspector General, and grantees' internal audit departments share a common interest with Region II in ensuring that transit agencies receiving federal, state, and local moneys comply with applicable laws and properly spend funds. Although these entities have issued numerous reports on Region II grantees, the region did not routinely receive copies of all relevant audit reports and, consequently, did not use them to enhance regional oversight or identify grantee management deficiencies or misspent funds. (See app. IV for further information about these organizations' activities.)

For example, a 1990 New York State comptroller's office report disclosed significant weaknesses in LIRR's controls over change orders for construction work on the Holban/Hillside maintenance facility. Under MTA's procurement guidelines, LIRR is required to obtain competitive bids for contracts of \$25,000 or more, but the state comptroller's office found that LIRR had awarded contractors millions of dollars in construction work by authorizing change orders instead of obtaining competitive bids for the additional work. On three UMTA-funded contracts, the comptroller's office questioned the basis for \$2.5 million in change orders and recommended that MTA refer the questionable change orders to appropriate state and federal investigative bodies for follow-up. MTA referred this recommendation to its own Office of Inspector General.

However, Region II was unaware of the comptroller's report because the region did not routinely coordinate with the state comptroller's office.

Consequently, Region II did not take action to investigate the questioned costs. When we began our review, no state or federal investigation of the \$2.5 million in questioned change orders had been initiated. Because of the large federal investment in the Holban/Hillside facility, we have referred this issue to our Office of Special Investigations for further review.

## Backlog of Grants Awaits Closeout

UMTA requires that grants be screened for closeout when they meet certain criteria—when they have remained open for more than 7 years, when 100 percent of their funds have been disbursed, or when 95 to 99 percent of their funds have been disbursed and more than 6 months have elapsed since the last disbursement. As of March 1991, Region II had 293 inactive and completed grants with uncommitted balances totaling \$122 million. A timely and full reconciliation of a grant is important because the unspent funds might have been available for other transit needs.

Some of the region's open grants date back to NYCTA projects begun in the 1970s that have been inactive for several years or for which more than 95 percent of the funds have been disbursed. For example, NYCTA's 1972 grant from UMTA for the Second Avenue subway project has remained open, even though the project was discontinued in 1975. NYCTA spent \$36 million in UMTA funds on this project, and, as of February 1991, the grant had an undisbursed balance of \$7.2 million.

As early as 1983, the OIG reported that Region II was not expeditiously closing out inactive and completed projects, including the Second Avenue subway project. In 1984, Region II reviewed the project and discovered that legal claims were pending. UMTA headquarters advised Region II to "negotiate a fixed period for the availability of these funds, e.g., one year, in which the grantee must litigate or settle the claim(s)." Region II extended NYCTA's grant for 1 year to March 1986 to afford reasonable time to conclude the claims process. UMTA approved another 1-year extension through March 1987, after which Region II again failed to close out the grant.

We found no evidence of further oversight of this grant between 1986 and December 1990, when the region received a letter from New York City requesting UMTA's approval for a proposed settlement for claims on this project. The federal share of this settlement, if approved, would be

about \$4.5 million, leaving \$2.7 million in federal funds to be deobligated. Region II officials could not explain the apparent lapse in oversight between 1986 and 1990 and could not provide a time frame for closing out the grant. The officials also acknowledged that numerous other grants require closeout but said that the region did not have enough staff to eliminate the backlog.

In commenting on a draft of this report, DOT pointed out that since October 1987 Region II had closed 680 inactive and completed grants. According to DOT, UMTA had previously identified grant closeouts as a priority and will continue to give this issue maximum attention consistent with available staff resources and other priorities.

## Region II Has Not Reviewed the Overhead Rate Charged by NYCTA

UMTA requires grantees to develop and submit for UMTA's approval plans for allocating overhead costs to their grants as a percentage of direct project costs.<sup>4</sup> Grantees must update the plans annually and obtain UMTA's approval of annual increases of 10 percent or more. Since 1984 UMTA has not reviewed and approved overhead cost allocation plans for NYCTA, although annual increases exceeded 10 percent several times during that period. A Region II official acknowledged this deficiency, agreed that financial oversight of grantee overhead costs is important, and said that the region would address this problem. As recent findings of abuses in the billing of overhead costs to federal research grants have shown, adequate oversight of overhead cost allocation is essential to protect the federal government's interests.<sup>5</sup>

## Conclusions

Region II grantees have primary responsibility for ensuring that the federal requirements are followed and funds are properly spent; the region is responsible for overseeing grantees' activities. Although we did not review all Region II grantees' compliance with federal requirements, our work at two of the region's major grant recipients—LIRR and NYCTA—indicates that UMTA funds are vulnerable to waste, fraud, and abuse. Region II's oversight did not effectively detect and correct problems identified by the OIG, the New York State comptroller's office, and others. Region II did not act aggressively to enforce UMTA regulations or

<sup>4</sup> Cost allocation plans are required by UMTA Circular 5010.1A, Project Management Guidelines for Grantees.

<sup>5</sup> Hearings before the Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, in March and May 1991 addressed abuses involving overhead costs charged by universities to federal research grants. The Defense Contract Audit Agency, Department of Health and Human Services, and GAO have also investigated this issue.

to compel the grantees to take needed corrective actions. As a result, LIRR and NYCTA remained out of compliance, and longstanding deficiencies went uncorrected. In addition, federal funds are at further risk of mismanagement because the region has not complied with UMTA's administrative requirements to review grantee overhead costs, close out inactive grants, and deobligate unused funds.

With oversight responsibility for fully 25 percent of UMTA's active grants, when serious problems occur, Region II must act quickly and aggressively to bring grantees into compliance with federal requirements. Until the region takes such a proactive oversight stance, funds will continue to be misspent, and the region will continue to send a message to grantees that federal requirements are not important.

Moreover, the region has not made full use of all available resources and information on grantee performance, including reports by state and local audit organizations and grantee internal audit departments. Although such groups regularly report on waste and mismanagement by Region II grantees, the region does not routinely receive or use their reports. As a result, the region is missing opportunities to better safeguard federal transit grants and to reduce the risk of fraud, waste, and abuse of those funds.

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## Recommendations

To provide more effective grants management oversight of Region II grantees, we recommend that the Administrator, UMTA, direct the Region II Manager to

- act promptly to correct grantee noncompliance with federal requirements and withhold funds where appropriate,
- establish milestones for closing out inactive and completed grants in accordance with UMTA guidelines,
- review NYCTA overhead cost allocation plans and rates as required by UMTA rules, and
- formalize coordination with state and local audit organizations responsible for Region II grantees so that the region can obtain and use their reports in its oversight activities.

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## Agency Comments and Our Evaluation

DOT noted that UMTA has embarked on an intensive effort to identify and address areas in its program management and oversight activities that need to be strengthened. According to DOT, we are recommending procedures that UMTA already follows or that are consistent with existing

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departmental objectives. However, we did not find that Region II had followed these procedures.

Specifically, DOT said that UMTA will continue to act promptly to enforce federal requirements to ensure that grantees come into compliance as quickly as possible and, where appropriate, withdraw funding. Our work disclosed that Region II's efforts at LIRR and NYCTA were neither appropriate nor timely to compel prompt corrective action. By the time the region suspended funding on LIRR's construction project, costs had more than doubled, and the completion date had slipped by 5 years. Also, NYCTA continued to use buses in violation of UMTA requirements and to the detriment of public ridership for years after the problem was identified.

DOT further said that UMTA will move to close out inactive and completed grants in accordance with UMTA's guidelines. However, Region II has a backlog of nearly 300 completed or inactive grants with uncommitted balances totaling \$122 million that might be available for other transit needs. We believe that the region needs specific goals and target dates to address this backlog.

In addition, DOT said that UMTA will request NYCTA to prepare an overhead cost allocation plan and will subsequently request the OIG to review the plan and ensure that it conforms to federal requirements.

Finally, DOT said that UMTA will request the OIG to ensure that the necessary coordination mechanisms are in place to incorporate the products of all relevant oversight agencies into the single annual audit process, which UMTA will use in accordance with its existing oversight activities. We agree that coordinating audit findings for the single annual audit has merit. We also believe that Region II should obtain copies of all relevant reports so that the region can use the details of these audits, including the names of grantees reviewed, the issues audited, and the audit resolution, to better focus the region's own oversight activities. The full text of DOT's comments and our responses appear in appendix V.

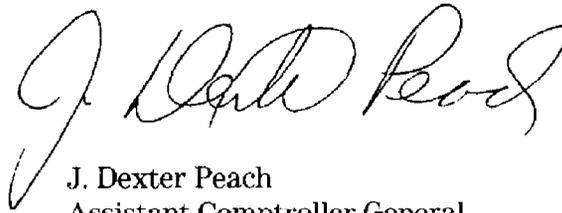
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This report is based on information obtained from officials of UMTA, the New York State comptroller's office, and selected grantees and from reports by the OIG and others. Appendix I details our objectives, scope, and methodology. We conducted our work from October 1990 to October 1991 in accordance with generally accepted government auditing standards.

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This is one of a series of reports on UMTA's regional oversight. We also plan to issue a summary report identifying programwide vulnerabilities to fraud, waste, abuse, and mismanagement and recommending appropriate corrective actions.

We are sending copies of this report to the Acting Secretary of Transportation; the Administrator, UMTA; the Manager, UMTA Region II; and the Director, Office of Management and Budget. Copies will be sent to others upon request. The review was performed under the direction of Kenneth M. Mead, Director, Transportation Issues, who can be reached at (202) 275-1000. Other major contributors to this report are listed in appendix VI.



J. Dexter Peach  
Assistant Comptroller General

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B-242554

List of Recipients

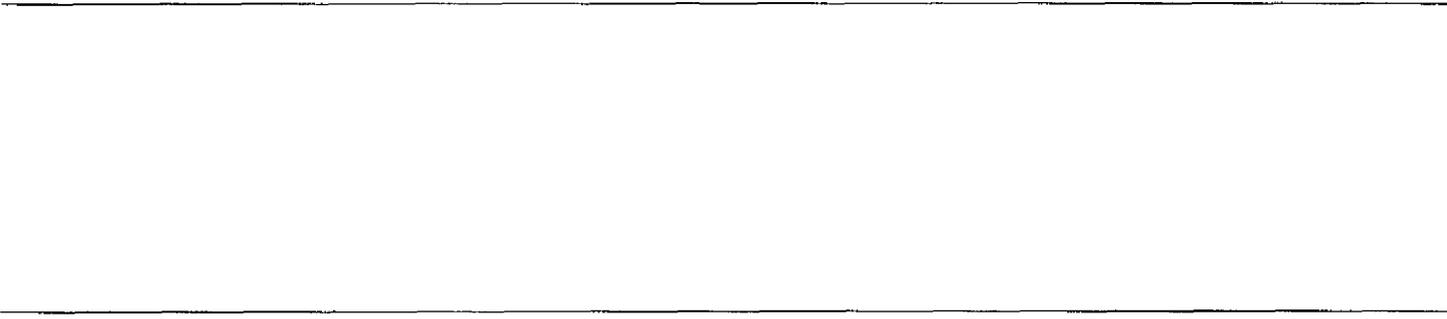
The Honorable John Glenn  
Chairman, Committee on  
Governmental Affairs  
United States Senate

The Honorable Donald W. Riegle, Jr.  
Chairman, Committee on Banking,  
Housing, and Urban Affairs  
United States Senate

The Honorable Alan Cranston  
Chairman, Subcommittee on  
Housing and Urban Affairs  
Committee on Banking, Housing,  
and Urban Affairs  
United States Senate

The Honorable Barbara Boxer  
Chair, Government Activities  
and Transportation Subcommittee  
Committee on Government Operations  
House of Representatives

The Honorable Cardiss Collins  
House of Representatives



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**Abbreviations**

DOT	Department of Transportation
GAO	General Accounting Office
LIRR	Long Island Railroad
MTA	Metropolitan Transportation Authority
NYCTA	New York City Transit Authority
OIG	Office of the Inspector General
PMO	project management oversight
UMTA	Urban Mass Transportation Administration

# Objectives, Scope, and Methodology

We undertook our review of the Urban Mass Transportation Administration (UMTA) grants management because the Comptroller General wanted to determine whether mass transit programs were vulnerable to fraud, waste, and mismanagement such as were found in the Department of Housing and Urban Development and in the savings and loan industry. The objectives of our review were to examine (1) compliance with federal requirements by selected grant recipients in UMTA Region II and (2) the effectiveness of UMTA's oversight of Region II grantees.

To meet these objectives, we reviewed the Urban Mass Transportation Act of 1964, as amended, as well as UMTA circulars, policy guidance, and other reports and documents pertaining to grantees' responsibilities for complying with federal requirements and to Region II's grants management oversight. We judgmentally selected and examined two transit projects undertaken by the Long Island Railroad (LIRR) and the New York City Transit Authority (NYCTA) that received nearly \$230 million in federal funding. These projects were selected on the basis of such factors as the amount of federal funding and the age of the grant.

To address our first objective, we identified instances of grantee non-compliance, waste, and mismanagement reported by the Department of Transportation's Office of the Inspector General (OIG), the New York State comptroller's office, the New York City comptroller's office, the Metropolitan Transportation Authority's (MTA) Office of the Inspector General, and LIRR's and NYCTA's internal audit departments. We relied on the OIG's certification that the audits were undertaken in conformance with generally accepted government auditing standards and did not independently verify the accuracy of the OIG's findings.

To determine the effectiveness of Region II's oversight of its grantees, we initially interviewed UMTA headquarters and Region II officials to gain an understanding of the organization and to determine the agency's policies and procedures for monitoring grantees' performance and compliance with federal requirements. We then reviewed UMTA's application of grant oversight mechanisms at LIRR and NYCTA—two major operating agencies of MTA. We also evaluated the effectiveness of Region II's oversight in addressing the problems cited by the OIG and other audit organizations. UMTA grants are made to MTA, which allocates funds to its operating agencies, including LIRR and NYCTA. However, specific UMTA funding data by operating agency were not readily available. MTA and its operating agencies have 62 active grants totaling \$6.3 billion, or about 72 percent of Region II's grant funds.

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**Appendix I**  
**Objectives, Scope, and Methodology**

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We interviewed NYCTA and MTA officials and UMTA project managers responsible for LIRR and NYCTA. We reviewed self-certification letters, single audit reports, triennial review files, quarterly project progress reports, and minutes of UMTA progress meetings. We also reviewed regional correspondence files, quarterly financial status reports, project management oversight reports, and other pertinent reports and records concerning these projects.

# UMTA Region II Active Grants by State as of October 1991

Dollars in millions			
State	Number of grants	Number of grantees	Value of grants
Connecticut <sup>a</sup>	1	1	\$ 36,976
New Jersey	93	5	1,894,899,232
New York	267	35	6,854,915,662
Virgin Islands	20	1	6,105,603
<b>Total</b>	<b>381</b>	<b>42</b>	<b>\$8,755,957,473</b>

<sup>a</sup>In 1988 responsibility for Connecticut grantees was transferred from Region II to Region I, headquartered in Boston, Massachusetts. Region II continues to administer but not oversee 128 Connecticut grants valued at about \$519 million.

Source: UMTA's Grants Management Information System.

# Office of Inspector General Reports for UMTA Region II - October 1987 Through October 1991

Subject	Grant funds wasted, misspent, or mismanaged	Grantee(s) <sup>a</sup>
Quality of construction and work orders (R2-UM-8-027)	\$1,326,000	New York City Transit Authority, Brooklyn, NY
Work orders on subway projects (R3-UM-8-028)	1,004,724	New York City Transit Authority, Brooklyn, NY
Transit service for students (R3-UM-8-029)	22,300,000	New York City Transit Authority, Brooklyn, NY
Engineering staff proficiency (R3-UM-8-122)	<sup>b</sup>	New York City Transit Authority, Brooklyn, NY
Commuter bus replacement (R3-UM-8-142)	<sup>b</sup>	New Jersey Transit Corporation, Newark, NJ
Transit service for students (R2-UM-1-006)	66,000,000	New York City Transit Authority, Brooklyn, NY
Equipment warranty and service agreements (R2-UM-1-019)	12,724	New Jersey Transit Corporation, Newark, NJ
Peak vehicle requirements (R4-UM-0-030)	10,140,412	New Jersey Transit Corporation, Newark, NJ Metropolitan Suburban Bus Authority, Nassau County, Mineola, NY Niagara Frontier Transit Authority, Buffalo, NY Rochester-Genesee Regional Transit Authority, Rochester, NY Capital District Transit Authority, Albany, NY

<sup>a</sup>Not all grantees had wasted, misspent, or mismanaged funds.

<sup>b</sup>Report addressed procedural issue(s) and did not recommend recovery of funds.

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# Selected Audit Organizations That Review Region II Grantees

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## The New York State Comptroller's Office

This office scrutinizes and reports on how New York State tax dollars are spent. In addition to periodically examining financial practices and controls relating to payrolls, purchasing, and cash transactions, the office evaluates the revenue accountability of the state's transportation authorities. After examining the authorities, the office issues reports containing findings and recommendations for ensuring efficient transit operations. Agency heads are required by law to report to the governor, state comptroller, and legislative leaders within 90 days on the actions they have taken or plan to take to implement the recommendations.

Between 1988 and 1990, the state comptroller's office issued eight reports on LIRR and questioned approximately \$21 million in expenditures. During this same period, the state comptroller issued nine reports on NYCTA and questioned about \$6.2 million in expenditures. These reports identified cost overruns, inadequate preventative maintenance procedures, and other deficiencies at LIRR and NYCTA.

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## The New York City Comptroller's Office

Between 1987 and 1990, this office issued 15 reports on LIRR and NYCTA that addressed needed financial and management improvements. For example, the city found that NYCTA's \$227-million station modernization program was "plagued by poor planning, disorganization and mismanagement." The city further reported that the program was millions of dollars over budget and that most projects were far behind schedule.

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## The Metropolitan Transportation Authority's Office of the Inspector General

This office conducts audits and investigations of MTA and its operating agencies and monitors MTA's progress in providing safe, reliable, clean, and affordable public transportation. In addition, the office recommends ways that MTA can improve the management of its capital program and reduce fraud, waste, and abuse. Between 1987 and 1990, the office issued 53 reports on LIRR and NYCTA.

In addition to conducting audits of MTA's capital program, the inspector general has reviewed UMTA-funded projects, including NYCTA's 63rd Street tunnel project and subway car overhaul program. A senior official told us that the office had also participated in a criminal investigation of the Holban/Hillside project.

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## Internal Audit Department

This MTA department conducts audits of MTA and its operating agencies and monitors each operating agency's internal audit activities. The department reviews and coordinates follow-up actions on audit reports

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**Appendix IV  
Selected Audit Organizations That Review  
Region II Grantees**

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concerning MTA and its operating agencies for the MTA board of directors. In addition, in 1989 and 1990, the LIRR and NYCTA internal audit departments issued over 500 reports that identified deficiencies, such as overpayments, inventory and property security weaknesses, and other management control weaknesses.

# Comments From the Department of Transportation

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



**U.S. Department of  
Transportation**

Assistant Secretary  
for Administration

400 Seventh St., S.W.  
Washington, D.C. 20590

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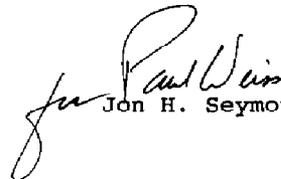
Mr. Kenneth M. Mead  
Director, Transportation Issues  
Resources, Community, and Economic  
Development Division  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Mead:

Enclosed are two copies of the Department of Transportation's comments concerning the U.S. General Accounting Office draft report entitled "Mass Transit Grants: Funds Misspent by Two Transit Authorities in UMTA's New York Region."

Thank you for the opportunity to review this report. If you have any questions concerning our reply, please call Martin Gertel on 366-5145.

Sincerely,

  
Jon H. Seymour

Enclosures

DEPARTMENT OF TRANSPORTATION (DOT) REPLY

TO

GENERAL ACCOUNTING OFFICE (GAO) DRAFT REPORT

ON

MASS TRANSIT GRANTS:

"Funds Misspent by Two Transit Authorities

in UMTA's New York Region"

GAO/RCED-92-38

SUMMARY OF GAO FINDINGS AND RECOMMENDATIONS

The GAO report finds that the Urban Mass Transportation Administration (UMTA) gives grantees primary responsibility for appropriately using Federal mass transit funds, however, the two grantees reviewed did not have adequate systems to ensure compliance with Federal requirements. GAO found that because of its limited oversight, UMTA did not effectively detect and correct deficiencies, and as a result, funds are vulnerable to fraud, waste and mismanagement. DOT's Office of Inspector General (OIG) identified more than \$90 million in wasted, misused, or mismanaged funds by the New York City Transit Authority (NYCTA) between October 1987 and June 1991.

GAO found that Region II did not correct serious procurement and quality assurance deficiencies in a major Long Island Railroad (LIRR) construction project in a timely manner. GAO maintains that Region II was alerted to the problems in 1987, but did not take corrective actions until 1989 when it barred new capital assistance to LIRR. In addition, the region did not verify corrective actions promised by NYCTA concerning violations of UMTA school bus regulations reported by the OIG in 1987, 1990 and 1991, and only recently took action to enforce compliance with the regulations.

GAO found that Region II did not comply with UMTA's administrative requirements for closing out grants and reviewing overhead costs at NYCTA. Finally, GAO determined that Region II did not effectively use findings by other organizations, such as the New York State Comptroller's Office, on waste and mismanagement at LIRR and NYCTA.

GAO recommended that the UMTA Administrator improve Region II's grant management oversight by: (1) acting promptly to correct grantee noncompliance with Federal requirements and withhold funds where appropriate; (2) establish milestones for closing out grants; (3) review NYCTA overhead cost allocation plans and

rates; and (4) formalize coordination with state and local audit organizations responsible for Region II grantees so that the region can obtain and use their reports in its oversight activities.

SUMMARY OF THE DEPARTMENT OF TRANSPORTATION POSITION

The Department appreciates GAO's efforts to help ensure that Federal mass transportation programs avoid potential fraud, waste, abuse or mismanagement through effective program oversight. We share with GAO the objective of ensuring compliance with Federal requirements and proper use of funds. UMTA, in conjunction with GAO and OIG efforts, has embarked upon an intensive effort over the past two years to identify and address areas of its program management and oversight activities that need strengthening. The Department has successfully sought increased statutory, fiscal, and personnel resources to undertake necessary actions to ensure that Federal requirements are met and that programs operate efficiently and effectively.

The Department does have a number of concerns with the draft report. The draft could provide a clearer representation of the significance of grantee's control mechanisms and the positive aspect of audit findings and how they relate to UMTA's oversight role. Contrary to the draft, UMTA was cognizant of and taking action on both the LIRR project management concerns and the NYCTA school bus tripper service issue during the timeframes in question. GAO also appears to have several inconsistencies and inaccuracies in its characterization and summation of the dollar value of OIG audit findings. Finally, we believe it would be most useful for the GAO to provide information regarding the current status of UMTA's efforts to improve grant management oversight.

DETAILS OF THE DEPARTMENT OF TRANSPORTATION POSITION

Grantee Control Systems

The GAO report finds that the two grantees reviewed did not have adequate financial, technical, and other management systems to ensure compliance with Federal requirements. The report presents as evidence of that finding the results of the grantees' internal and external oversight activities in uncovering actual and potential problems. The New York Metropolitan Transit Authority's inspector general and the LIRR and NYCTA internal audit departments issued more than 600 reports between 1987 and 1990 identifying deficiencies, and the State Comptroller issued 17 reports between 1988 and 1990. GAO reports that State law requires grantees to report to the Governor, State Comptroller, and legislative leaders within 90 days on the actions they have taken or plan to take to implement the recommendations.

See comment 1.

See comment 2.

It is the Department's position that grantee and other external oversight activities are an integral part of an adequate system of oversight controls. Where operating effectively, these oversight activities are expected to identify real and potential problems before they become unmanageable. Contrary to the report's conclusions (draft page 12), the detection of problems by OIG, the New York State Comptroller's Office, and others are key elements of UMTA's oversight which demonstrate that the grantee oversight system is generally adequate. Although significant deficiencies in grantee operations have been identified through these oversight activities, the oversight system appear to be generally adequate.

Region II Oversight System Detects Deficiencies

A. UMTA's Statutory Role

GAO reviewed applicable laws, regulations and executive orders governing agency activities, and discussed the program with UMTA headquarters and regional officials. Nevertheless, GAO does not take into account UMTA's adherence to Federalism requirements established by Executive Order 12612, the Urban Mass Transportation Assistance Act of 1964 (UMT Act), as amended, and Governmentwide directives concerning administration of grants which establish the policy and administrative framework in which the UMTA program operates. The report implies that UMTA's reliance upon the grantee as being primarily responsible for appropriately using Federal mass transit funds is misplaced. The report misapprehends the grantor agency role in assuming that UMTA is responsible for "correcting" procurement and quality assurance deficiencies identified through oversight activities. It is the grantee's responsibility to ensure that Federal funds are properly utilized and to ensure that adequate local oversight is provided to identify and correct deficiencies. It is UMTA's role to provide oversight to ensure that grantee control mechanisms are in place and working effectively. The GAO report findings concerning the results of local oversight activity support UMTA's position that existing oversight systems are generally adequate to identify deficiencies and generate corrective measures.

See comment 3.

The report is factually incorrect concerning UMTA's detection of the grantee system deficiencies cited in the report and on UMTA's actions directed at requiring corrective action by the grantees. Extensive correspondence between UMTA, LIRR and NYCTA, as well as the pertinent OIG audit reports, indicate that UMTA was aware of the problems and had taken appropriate and timely action.

See comment 4.

**B. UMTA Identified Problems at LIRR**

As early as 1986, during the conduct of the Triennial Review of the Metropolitan Transportation Authority (MTA), the LIRR's parent organization, UMTA's Region II staff raised concerns regarding LIRR's technical capacity to carry out UMTA-funded projects. As reflected in the Attachment, Chronology of UMTA/LIRR Project Management Issues, UMTA management at various levels engaged in efforts to inform LIRR of concerns and continued to monitor the corrective actions proposed by LIRR. Region II staff also questioned LIRR's budget estimates for the Hillside-Holban Maintenance Facility, and there was no UMTA participation in cost overruns for this project after September 1987.

When it subsequently became evident that LIRR's proposed actions were either not implemented or inadequate to address the problems, UMTA issued a determination that LIRR lacked the "technical capacity" required by Section 3(a)(2)(A)(i) and Section 9(e)(3)(A) of the UMT Act to carry out UMTA-funded projects. This determination precluded LIRR from the receipt of all capital assistance from UMTA. Only in April 1991, after LIRR's development and aggressive implementation of the required management reforms and other corrective actions, was UMTA able to rescind its earlier determination.

See comment 5.

**C. School Bus Regulation Enforced**

Upon receipt of information in 1987 confirming the reported violations, UMTA obtained a corrective action plan from NYCTA which was determined by UMTA and the OIG as resolving the OIG report items. Where the first OIG follow-up review in 1990 determined that violations were continuing to occur, UMTA accepted NYCTA management's assurances that the operational violations were contrary to published policy. Rather than withhold funds as recommended by the OIG, UMTA properly deferred such action on NYCTA management's assurances that tripper service requirements would be vigorously enforced at the operational level through use of disciplinary personnel action. When the second follow-up review by the OIG in 1991 showed continuing noncompliance, the ultimate sanction, withholding of financial assistance to NYCTA bus operations, was instituted.

See comment 6.

It is UMTA's policy to work with state and local governments with whom it has continuing relationships to bring about necessary corrections to operational deficiencies through measured application of available enforcement tools, reserving for only the most serious or intractable problems the ultimate sanction of withholding of Federal financial assistance. UMTA's policy is premised upon the basic legal

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See comment 7.

doctrine that state and local officials act in good faith in the exercise of their official duties and in attempting to comply with applicable law and regulation (see U.S. vs. Chemical Foundation, 272 U.S. 1, 14 (1926)). UMTA's measured responses to the two examples cited in the GAO report were appropriate and timely given the continuing nature of the grantee/grantor relationships involved.

Use of State and Local Audit Findings in UMTA Oversight

The Department agrees that all available sources of audit information should be employed to enhance regional oversight or to identify grantee management deficiencies or misspent funds. The Department does not believe that direct coordination between UMTA staff and the myriad state and local audit entities is an efficient or effective means of gathering and assimilating this information. Rather, we believe that the preferred method is to work with the DOT OIG, as the cognizant audit agency, to ensure that UMTA is receiving adequate information from all audit sources. UMTA relies upon the cognizant Federal audit agencies, operating within Office of Management and Budget guidelines implementing the Single Audit Act (Circular A-128), to be aware of and to take into account state and local audit activities.

See comment 8.

The GAO draft report should be revised to provide more information regarding the Department's view of the proper use of state and local audit reports in UMTA's overall program management and oversight activity.

Grants Close Out

The draft GAO report reflects that as of March 1991, Region II had 293 inactive and completed grants with uncommitted balances totaling \$122 million that might have been available for other transit needs if the grants had been closed out. UMTA had previously identified the need to close out completed and/or inactive grants as a priority. UMTA generally agrees with the GAO report in this area. However, the report should also reflect the fact that since October 1987, the period covered by the GAO report, 680 inactive and completed grants have been closed out. UMTA will continue to give this issue maximum attention consistent with available staff resources and other priorities.

See comment 9.

Review of NYCTA Overhead Costs

The draft report caption "Region II Has Not Reviewed The Overhead Rate Charged by NYCTA's Contractors" appears to confuse the NYCTA's overhead cost allocation plan required under Office of Management and Budget Circular A-87, with overhead charges by contractors. The caption's reference to contractors should be deleted. UMTA agrees with GAO that greater attention must be given to ensuring that overhead rates charged to UMTA grants are

See comment 10.

reasonable. UMTA will request that NYCTA prepare an overhead cost allocation plan, and will subsequently request that OIG review this plan to ensure that it conforms to Federal requirements. The draft report correctly reflects UMTA's position in this area.

Characterization of OIG Findings

In regard to the total dollar value of findings, the draft identified \$90 million as having been reported by the OIG as wasted, misused or mismanaged funds by NYCTA since October 1987. However, GAO's support (Appendix III) lists OIG audit reports for all of Region II from October 1987 through June 1991, which total \$51,283,860, rather than the \$90 million referred to by GAO for NYCTA alone.

The draft characterizes these finding amounts as wasted, misspent or mismanaged; however, about 98 percent of the \$51 million consists of OIG recommendations for funds which might have been put to better use. This type of OIG recommendation regards the OIG's judgement as to the effectiveness of expenditures, and does not necessarily correlate to wasted, misspent or mismanaged funds. For example, Appendix III includes \$16.5 million reported under R3-UM-8-142. However, this amount does not represent wasted, misspent or mismanaged funds, rather it represents OIG's estimate of potential savings under this grant from extending UMTA's minimum service life requirements. The OIG audit found that the grantee properly followed UMTA's service life criteria, in most cases significantly exceeding UMTA's minimum service life by several years before replacing the vehicles. The OIG used this to recommend that UMTA consider changing its minimum service life for such vehicles. The audit stated, "[t]o demonstrate potential benefits of an extended replacement cycle, we recalculated the New Jersey Transit Corporation's planned procurements under its fleet replacement strategy using a 15-year/750,000 mile criteria and found that UMTA could achieve a one-time savings of about \$16.5 million." This finding was used by OIG to illustrate its position favoring extension of UMTA's 12-year useful life policy, in no way relating to fraud, waste or abuse by the grantee. Similarly, report R3-UM-8-029 does not state that \$22.3 million was wasted, misspent or mismanaged by NYCTA. Rather, the report states that NYCTA is not in compliance with UMTA's school bus regulations and recommends that \$22 million in Federal assistance be withdrawn. In addition, the \$10.1 million listed under R4-UM-0-030, Peak Vehicle Requirements, represents the OIG's estimate of Federal participation in replacement of vehicles, some of which were used to an undisclosed degree for noncomplying tripper service, should UMTA decide at some future date to participate in such replacement.

See comment 11.

Federal Managers' Financial Integrity Act Reporting

GAO used the Department's prior reporting of UMTA grant management as a material weakness under the former Departmental reporting standards within the parameters of the Federal Managers' Financial Integrity Act (FMFIA) requirements as background to the draft report. However, the report does not relate any of the Region II reports as the basis for the Department's FMFIA reporting. In the absence of such relevance, the paragraph should be deleted. While there have been past instances which fell within the reporting parameters of the FMFIA requirements, we believe that these were the exception rather than the rule; and that taken in perspective of UMTA's \$3 billion per year program, UMTA's grant management system is essentially sound. The Department recognizes that to achieve optimal oversight performance UMTA will require additional resources dedicated to grant management and has identified its plan for accomplishing this objective in the FMFIA reporting.

See comment 12.

The report should more clearly recognize that, despite increased grant management responsibilities over the nine-year period ending in FY 90, UMTA's staffing resources were cut by 27 percent. The report should also clarify that the Department's reporting under the FMFIA indicates that the Department has already recognized the potential for concern, and has identified an action plan for improving the situation. Finally, the FMFIA report to the President indicates concern based on "greater risk" of problems occurring in grant management and oversight.

See comment 13.

Data Verification

The Department notes the continued reliance on reporting audit results previously reported by the OIG and other outside audit agencies in lieu of independent audit work or testing of the work relied upon. While the draft report provides a useful literature search of previous OIG reports, rather than reiterating earlier findings, we believe it would be most useful for the GAO to provide information regarding the current status of UMTA's efforts to improve grants management and oversight activities. The report does not provide any information concerning the ultimate disposition of the audit findings through the audit resolution process. This results in an unfair and inaccurate portrayal of the actual situation and does not appear to be in keeping with GAO audit reporting standards. In many instances, UMTA and its recipients have voiced substantial disagreement with the findings of the OIG and other audit agencies relied upon by the GAO to support its findings and recommendations. The GAO report does not reflect this position.

See comment 14.

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RESPONSE TO GAO RECOMMENDATIONS

The GAO report makes the following recommendations to the UMTA Administrator to provide more effective grants management oversight of Region II grantees:

RECOMMENDATION: Act promptly to correct grantee noncompliance with Federal requirements and withhold funds where appropriate.

RESPONSE: UMTA has and will continue to act promptly to enforce Federal requirements to ensure that grantees out of compliance come into compliance as quickly as possible. UMTA will not hesitate to employ the full range of available remedies for these purposes, including, where appropriate, withdrawal of Federal financial assistance.

See comment 15.

RECOMMENDATION: Establish milestones for closing out inactive and completed grants in accordance with UMTA guidelines.

RESPONSE: This recommendation is consistent with existing Departmental objectives. UMTA will move to close out inactive and completed grants as expeditiously as possible in light of available resources.

See comment 15.

RECOMMENDATION: Review NYCTA overhead cost allocation plans and rates as required by UMTA.

RESPONSE: This recommendation is consistent with existing Departmental objectives. UMTA will request that NYCTA prepare an overhead cost allocation plan, and will subsequently request that OIG review this plan to ensure that it conforms to Federal requirements.

See comment 15.

RECOMMENDATION: Formalize coordination with state and local audit organizations responsible for Region II grantees so that the region can obtain and use their reports in its oversight activities.

RESPONSE: The object of this recommendation is in line with existing Departmental objectives. UMTA will request that the OIG ensure that necessary coordination mechanisms are in place to ensure that the products of all relevant oversight agencies are incorporated into the A-128, Single Audit Process, which in turn will be used in accordance with existing practice in UMTA oversight activities.

See comment 15.

Attachment

CHRONOLOGY OF UMTA/LIRR PROJECT MANAGEMENT ISSUES

<u>DATE/EVENT</u>	<u>ISSUE/ACTION</u>	<u>SUPPORTING DOCUMENT</u>
February 13, 1987 Task 3 Report on Main Line Project	<p>Project Management Assessment recommends:</p> <ul style="list-style-type: none"> <li>o LIRR expedite Project Management development of standard procedures</li> <li>o Management action required to support and resolve method of implementation of Quality Assurance Program</li> <li>o Construction Management Directorate duplicates Project Management Directorate in coordination with other functions</li> <li>o Review of split responsibility for adequate control of Force Account work</li> <li>o Review and development of cost and schedule control over Force Account Work</li> <li>o Review of Force Account progress and cost reporting</li> <li>o Contracts Administration needs clear line of authority</li> <li>o Clear, overall responsibility for project - fragmented between contractors and Force Account - no individual clearly in charge</li> </ul>	PMO Task 3 Report

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Attachment		
March 2, 1987 Draft Triennial Review	UMTA finds that LIRR having difficulty managing their capital program P. 21)  Notes that LIRR should develop procedures for quality assurance	Draft Triennial Report transmitted to R. Kiley, MTA, by letter from L. Braun
March 30, 1987 Quarterly Capital Review Meeting	UMTA advises LIRR that:  o Quality Assurance efforts need augmentation  o Project management procedures need to be developed	LIRR Interoffice Memo
July 2, 1987 Transmittal	UMTA informs LIRR that there is no independent Quality Assurance Program at LIRR	Letter from B. Sterman to D. Caufield transmitting Spot Reports
July 30, 1987 - August 1988 Letters and Reports	UMTA repeatedly informs LIRR of need to evaluate and correct defective high level platforms. Quality Control Program needs to be improved	Letters (9) between UMTA and MTA, LIRR Spot Report #14; and MTA Inspector General's Report
November 3, 1987 Memo	PMO outlines problem of "two system" reporting of costs used by LIRR	PMO Memo to UMTA
November 10, 1987 Quarterly Capital Review Meeting	UMTA informs LIRR of concerns about development of cost estimates. \$22M Hillside increase not properly documented (p. 3)  LIRR informs UMTA that Penn Station project will be delayed 6 months because unaware of ownership of station. Real estate procedures could have avoided delay (p. 2)  Cost Reporting System does not reflect actual costs on Main Line Project (p. 5)  UMTA reiterates concern that procedures are delayed by over one year	UMTA Meeting Notes

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		Attachment
December 22, 1987 Meeting between UMTA, LIRR and MTA	<p>UMTA-LIRR conflicts addressed:</p> <ul style="list-style-type: none"> <li>o UMTA states that LIRR must cooperate with PMO in access to files and project</li> <li>o All Project Files must be centralized for each project and completed according to UMTA project management guidelines (CS010.1A). At this time LIRR is not in compliance with guideline</li> </ul>	Letter from B. Starman to D. Caufield and Minutes of Meeting
February 10, 1988 Quarterly Review Meeting	<p>Penn Station Project Delayed 4 additional months due to discovery that inventory of electrical systems had not been done (p. 3)</p> <p>Concern expressed over length of time it is taking LIRR to complete Program Procedures (p. 7)</p>	UMTA Meeting Notes
March 16, 1988 Spot Report	<p>UMTA informs MTA/LIRR that Force Account Cost and Schedule Controls on the Main Line Project do not comply with UMTA requirements</p> <ul style="list-style-type: none"> <li>o There is no integrated scheduling including both contracted and force Account Work</li> <li>o Manpower planning of Force Account work is inaccurate and there is no formal system to project accurate manpower requirements</li> <li>o Reporting of costs does not accurately reflect actual costs</li> </ul>	Letter from L. Braun to R. Kiley, MTA, transmitting PMO Spc Report #10 and #13

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		Attachment
March 16, 1988 Spot Report	After review of defective concrete slab issue FMO recommends a detailed survey of slabs and a new load test be carried out	Letter from L. Braun to R. Kiley transmitting Spot Report #14
March 25, 1988 Letter	Acknowledgement of Spot Reports on insufficiency:  o Force Account Planning  o Defective precast slabs	Letter from B. McIver to L. Braun
April 1988 MTA Consultant Report	MTA outlines problems they see in LIRR's Project Schedule and Management at Hillside	MTA Consultant Report
April 12, 1988 Letter	UMTA responds to LIRR Letter on Spot Reports and reiterates that reports are accurate and appropriate	Letter from L. Braun to B. McIver
May 26, 1988 Memorandum	UMTA Administrator informed that New York State Comptroller has completed audit report that is highly critical of LIRR Procurement Practices	Memo from L. Braun to A. DelliBovi, Administrator
June 2, 1988 Quarterly Capital Review Meeting	UMTA informs LIRR that Quality Assurance Procedures must be put in place to bridge a gap that now exists between individual inspectors and upper management (p. 3)  UMTA reiterates concern that LIRR is not complying with UMTA regulations on maintaining contract administration files (p. 6)  UMTA states that two LIRR contracts do not comply with Federal Procurement regulations and will not be eligible for UMTA funding (p. 7)  UMTA states concern about credibility of project budgets and schedules	UMTA Meeting Notes

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August 3, 1988  
Spot Report

LIRR informed that they should develop written procedures for planning and tracking of Force Account labor

Letter from B. Starman to J. Kaiser, MTA, transmitting Spot Report #22

Control of Force Account should be delegated to the Project Manager

September 8,  
1988  
Quarterly  
Capital Review  
Meeting

UMTA informs LIRR that many months after projects have been completed charges have not been reported as being expended:

UMTA Meeting Notes

- o Main Line project, 7 months since completion has \$24 million unexpended (p.2)

- o Port Washington Reverse Signalling, 6 months since completion has almost \$3 million unexpended (p. 4)

UMTA states that processing of project charges must be expedited.

UMTA requests that copies of project procedures be sent to UMTA for review while they were still in draft form. Note: this was the third quarterly meeting where request was made.

UMTA emphasizes the need to maintain Contract Administration files (p.8)

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<u>DATE/EVENT</u>	<u>ISSUE/ACTION</u>	<u>DOCUMENT</u>
December 16, 1988 Quarterly Capital Review Meeting	<p>UMTA states that almost 9 months after the Main Line Electrification Project was completed \$20M in Force account Labor and other charges have still not been reported as expended (p. 2)</p> <p>Notes that top management was not present at the first training session on the Quality Assurance procedure signalling lack of importance of this program (p. 7)</p> <p>UMTA reiterates concern that program procedures are delayed by almost 3 years (p. 7)</p> <p>UMTA states that the LIRR lacks quality products, procurement is out of control, and UMTA has no confidence in LIRR budget forecasts and schedules.</p> <p>UMTA expresses doubt that LIRR has technical capacity to manage its capital program.</p>	UMTA Meeting Notes
December 29, 1988 Letter	UMTA comments on inadequacies of Quality Management Plans for Penn Station and Jamaica Projects	Letter from S. Sterman, to J. Kaiser, MTA
February 10, 1989 CPOC Report (MTA)	MTA oversight report notes concern about level of detail of scope and budget estimates for Jamaica and Penn station projects	MTA Capital Program Oversight Committee Report

The following are GAO's comments on the Department of Transportation's letter dated November 7, 1991.

## GAO Comments

1. See responses to DOT's detailed comments.
2. This section of our report illustrates the types of problems that can be caused by inadequate grantee management and financial systems. In contrast, DOT's comments focus on the degree of after-the-fact detection of such problems. Although we agree with DOT that detection and correction of past problems are important, the point we are making is the need for, and importance of, grantee control systems that prevent such problems from occurring in the first place. Regarding after-the-fact problem detection, DOT stated that the several hundred audit reports issued between 1987 and 1990 by MTA's inspector general, LIRR's and NYCTA's internal audit departments, and the New York State comptroller were key elements of UMTA's oversight. We question the basis for DOT's determination that the reports are part of UMTA's oversight, particularly since Region II has no procedures to receive and review these audit reports and, in fact, did not receive and review them. Unless Region II monitors the report findings and, more importantly, the actions taken to correct deficiencies, it cannot ensure that federal requirements are met and funds are appropriately spent.
3. The draft acknowledged UMTA's adherence to federalism requirements established by Executive Order 12612 that support placing maximum reliance on grant recipients with minimal intrusion by UMTA. Although we believe that UMTA's reliance on grantees would be appropriate if grantees had demonstrably strong management control systems, this was not the case at the grantees we examined in Region II. In addition, contrary to DOT's assertion that our report did not take into account UMTA's adherence to grant administration requirements established by law and governmentwide directives, the report specifically examined Region II's application of these federal grant oversight requirements and found them to be deficient.

DOT contends that we do not understand UMTA's and grantees' responsibilities. DOT states that grantees are responsible for ensuring that federal funds are properly used and that UMTA's role is to provide oversight to ensure that grantee control mechanisms are in place and working effectively. The draft report recognized these responsibilities. Moreover, we believe that UMTA and the grantees share responsibility for ensuring that funds are properly spent. The Congress provided DOT with authority to

compel grantee compliance by reducing or withdrawing financial assistance. Therefore, it is UMTA's responsibility to take action when federal transit funds are wasted, misspent, or mismanaged because grantees lack control mechanisms or their mechanisms do not work effectively. Furthermore, DOT told us it believes that some direct UMTA involvement in grantee oversight is critical to ensure grantee compliance.

4. We disagree. As detailed in comments 5 and 6, our report explicitly shows that Region II's grant oversight did not provide early detection and correction of longstanding system deficiencies at LIRR and NYCTA.

5. DOT's attachment notes numerous meetings, memoranda, and other correspondence initiated by UMTA between February 1987 and February 1989 to address LIRR's problems. The draft has been revised to include information on these actions. However, these actions were not sufficient to correct LIRR's problems, and the construction project continued to experience delays and cost increases. Thus, the actions cited in DOT's attachment cannot be construed as either appropriate or timely. As DOT notes, LIRR did not make the required management reforms and take other corrective actions until UMTA withdrew capital assistance.

6. Given the competing demands for scarce federal funds, we believe that grantees should take corrective actions promptly and UMTA should verify the actions taken. When NYCTA continued to operate buses exclusively for students, the public's transit needs were not met. Furthermore, the magnitude of funds involved (\$88 million) would appear to warrant efforts by Region II to verify that corrective actions had been taken.

7. DOT states that UMTA's responses to LIRR's and NYCTA's prolonged non-compliance were appropriate and timely, given the continuing nature of the grantee/grantor relationship. We disagree. LIRR did not correct its financial, procurement, quality control, and other management problems despite numerous advisory letters, reports, meetings, and memoranda from Region II about the need to do so. Also, NYCTA continued to operate buses in violation of federal requirements from 1987 until April 1991 after twice assuring UMTA that the noncompliance would be corrected. In both instances, federal transit funds continued to be wasted and mismanaged. Until UMTA takes a proactive oversight stance and acts promptly to compel grantees to correct noncompliance, it will continue to send a message to grantees that federal requirements are not important.

8. During the course of our work, Region II was not regularly making use of state and local audit reports in its oversight activities. DOT's suggested approach of having its OIG serve as a focal point in obtaining information from all audit sources has merit, provided that UMTA follows through in obtaining such information from the OIG and using it in its oversight activities.

9. The report has been revised to reflect this information.

10. The caption has been revised.

11. In the draft report, we stated that the OIG had identified over \$90 million as wasted, misspent, or mismanaged by NYCTA and listed in appendix III OIG reports citing total findings of \$51,283,860. We had erroneously included in the appendix the \$16.5 million noted by DOT in its comments. However, we had omitted from the appendix \$66 million that the OIG had recommended withholding from NYCTA in its first follow-up of NYCTA's use of public buses exclusively to transport students. The revised appendix III, which lists all OIG reports on Region II grantees issued between October 1987 and October 1991, totals \$100.8 million, including \$90.6 million attributable to NYCTA and \$10.2 million attributable to other grantees.

DOT objected to our characterizing as wasted, misspent, or mismanaged the funds that the OIG had recommended be withheld or put to better use. We believe that funds used contrary to provisions in federal grant legislation or in violation of UMTA's regulations may be appropriately described as wasted, misspent, or mismanaged.

12. DOT's identification of UMTA's grant management oversight as a material weakness in its last two Federal Managers' Financial Integrity Act reports to the President and the Congress is appropriate and relevant background information for this report.

13. The report has been revised to include information on UMTA's staff reductions.

14. It was not our objective to verify audit findings reported by the OIG or state and local agencies. Rather, we used this information to identify weaknesses in grantees' internal controls and Region II's oversight. Our work focused on actions taken by Region II to resolve the audit findings and ensure grantees' compliance and corrective actions. The draft report

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included the disposition or status (if ongoing) of audit resolution for the OIG reports discussed.

15. Our response is provided in the "Agency Comments and Our Evaluation" section at the end of the letter.

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# Major Contributors to This Report

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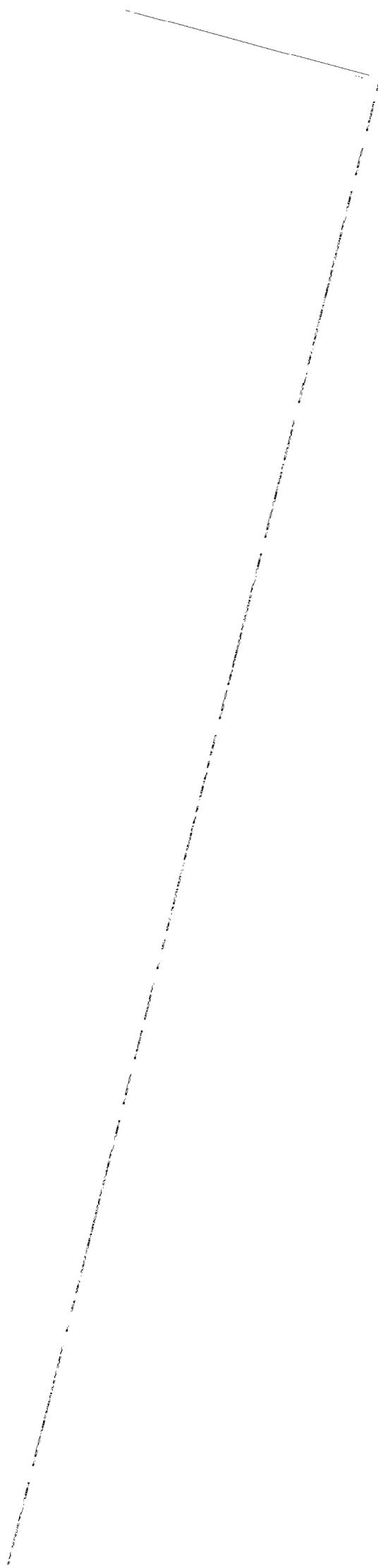
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